

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C. 20436

In the Matter of

CERTAIN PERSONAL WATERCRAFT  
AND COMPONENTS THEREOF

Investigation No. 337-TA-452

NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING A MOTION FOR SUMMARY DETERMINATION THAT  
ONE CLAIM OF ONE PATENT IS INVALID

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) of the presiding administrative law judge (“ALJ”) in the above-captioned investigation granting a motion for summary determination that claim 9 of U.S. Letters Patent 5,550,337 is invalid under 35 U.S.C. § 102(b) by reason of an on-sale bar.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3152. Copies of the public version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain personal watercraft and components thereof on March 9, 2001, based on a complaint filed by Yamaha Hatsudoki Kabushiki Kaisha, dba Yamaha Motor Company, Ltd., and Sanshin Kogyo Kabushi Kaisha, dba Sanshin Industries, Ltd. (collectively, “Yamaha”) of Japan. 66 *Fed. Reg.* 14937. The respondents are Bombardier, Inc. of Canada and Bombardier Motor Corporation of America of Wausau, Wisconsin (collectively “Bombardier”). Yamaha’s complaint alleges that Bombardier’s products infringe claims of 11 patents held by Yamaha.

On September 27, 2001, Bombardier moved pursuant to Commission rule 210.18 for summary determination that claim 9, the only asserted claim of U.S. Letters Patent 5,550,337, is invalid for violation of 35 U.S.C. § 102(b) by reason of an “on-sale” bar. Yamaha opposed the motion and the Commission investigative attorney supported the motion.

On November 16, 2001, the ALJ issued an ID (Order No. 80) granting a summary determination that asserted claim 9 of the ‘337 patent is invalid for violation of 35 U.S.C. § 102(b). No petitions for review of the ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and section 210.42 of Commission’s Rules of Practice and Procedure, 19 C.F.R. § 210.42.

By order of the Commission.

Donna R. Koehnke  
Secretary

Issued: December 11, 2001